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July 23, 2008

The Honorable Nicole Nason
Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S.E., West Building
Washington, DC 20590

Subject: Request for Interpretation or Petition for Reconsideration – "Federal Motor Vehicle Safety Standards; Occupant Protection in Interior Impact; Side Impact Protection; Side Impact Phase-In Reporting Requirements"
Docket No. NHTSA-2008-0104

Dear Administrator Nason:

The Alliance of Automobile Manufacturers (Alliance), whose members include BMW Group, Chrysler LLC, Ford Motor Company, General Motors, Mercedes-Benz USA, Mazda, Mitsubishi Motors, Porsche, Toyota, and Volkswagen, requests that NHTSA confirm the interpretation described below of the required compliance date for convertibles subject to the agency's final rule published in the Federal Register on June 9, 2008 (73 FR 32473). If the agency agrees with the Alliance's interpretation, we request that technical corrections be made to the subject final rule to clarify the requirements. If the agency does not agree with the Alliance's interpretation, we request that this letter be considered by NHTSA as a petition for reconsideration of the subject rulemaking.

In addition, our review of the final rule, as well as the September 11, 2007 final rule (72 FR 51908), found some measurement conversion errors in the static door crush requirements. We request that NHTSA issue a technical correction to resolve this issue.

Effective Date for Convertible MDB Test

In its June 9, 2008 Final Rule; Response to Petitions for Reconsideration, NHTSA clearly set an effective date of September 1, 2015 for subjecting convertibles to the pole test. However, the effective date for compliance with the moving deformable barrier (MDB) test for convertibles remains unclear in some portions of the final rule. The Alliance believes, based on the references below, that NHTSA intended to have a concurrent September 1, 2015 effective date for convertibles for compliance with both the pole and MDB tests:

73 FR 32475, Section III(c): "Delays the effective date for convertible vehicles until after completion of the phase-in for other vehicle types, i.e., until September 1, 2015." The Alliance interprets this language to mean convertibles must comply with the revised FMVSS 214 requirements (pole and MDB tests) beginning September 1, 2015.

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73 FR 32477, Section V(a): *"The adjusted schedule will also continue to couple the phase-in of the MDB with the pole test to enhance the practicability of meeting the new requirements."*

This underlined section is interpreted by the Alliance as requiring convertibles to meet the revised FMVSS 214 pole and MDB tests beginning with the same effective date of September 1, 2015.

73 FR 32479, Section V(c): *"To provide manufacturers of convertibles more time to develop more advanced technologies, this final rule delays the compliance date for convertibles until September 1, 2015."* This is interpreted by the Alliance as mandating convertibles to comply with both the MDB and pole test requirements effective September 1, 2015, since there is no statement by the agency specifying separation of the compliance test dates.

73 FR 32480, Section V(e)(1): *"To enhance manufacturers' ability to optimize the allocation of engineering resources and to encourage the early introduction of vehicles meeting the upgraded MDB test or the pole test, the phase-in schedules for the MDB and pole test requirements were made separate and concurrent."* This agency language also supports the Alliance's interpretation that convertibles have the same mandatory compliance date for both the MDB and pole tests.

If the agency agrees the Alliance interpretation is correct, we request that NHTSA update the following references to clarify the convertible effective date for MDB testing as September 1, 2015:

73 FR 32482, Table A: The table shows the phase-in periods, as well as excluded vehicles, for the MDB and pole tests. The column titled "Percent of vehicles that must comply with pole test during production period" indicates that convertibles do not have to meet the pole test until September 1, 2015. However, the column to the right, titled "Percent of vehicles that must comply with MDB test during production period," does not have an equivalent exemption statement for convertibles. The Alliance recommends adding the same language to the MDB column as is found in the pole test column for the production period "On or after September 1, 2015."

73 FR 32483, S7.2.4 Exceptions from the MDB phase-in; special allowances: This section makes no mention of the exemption for convertibles. The Alliance recommends that language to describe the exemption for convertibles be added to this section for clarification reasons, as follows:

S7.2.4(a)(3): Convertibles manufactured before September 1, 2015 are not subject to S7.2.1 or S7.2.2 of this section. These vehicles may be voluntarily certified to meet the MDB test requirements prior to September 1, 2015 (but convertibles that will be manufactured on or after September 1, 2015 are subject to S7.2.2).

If the Alliance interpretation regarding concurrent effective dates for MDB and pole test requirements for convertibles is not correct, then we petition NHTSA to amend the final rule so that the convertible MDB compliance effective date is concurrent with the pole test compliance effective date of September 1, 2015. This will allow manufacturers to coordinate the redesign of the convertible vehicles required to meet the MDB test and the pole test.

The Alliance believes that convertibles, as well as sedans and other body type vehicles, will likely need design changes to meet the new MDB requirements. Due to the use of the new test dummies and modified seating position procedures, manufacturers cannot be assured that current-design convertibles will meet the new MDB requirements without some redesign. NHTSA's intent (as noted above on 73 FR 32477 and 32480) in aligning the pole and MDB effective dates was to avoid requiring manufacturers to redesign the same vehicle twice, once to meet the MDB test requirements and then to meet the pole test requirements. This situation is identical for convertibles. In fact, making the MBD and pole test requirements separate and concurrent may be even more important for convertibles, due to their typically-lower sales volumes and thus the need to spread redesign costs over fewer total vehicle sales. Thus, effectively requiring two redesigns for convertibles is even more burdensome for manufacturers than it is for higher-sales-volume vehicles.

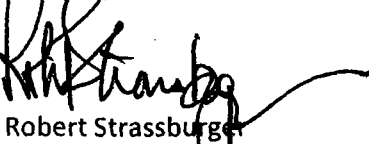
Force Values for Static Door Crush Test Requirements

The September 11, 2007 final rule added force measurements in Newtons (N) to the existing force measurements in pounds for the initial, intermediate, and peak crush resistance requirements for the static door crush test. In the sections covering tests with the seats installed, the initial crush resistance (S6.2.1) has a correct equivalence of 10,000 N for the existing 2,250 pounds minimum requirement. For intermediate crush resistance (S6.2.2), the rule provided an erroneous equivalence of 1,946 N for the existing 4,375 pounds minimum crush resistance. We recommend a force equivalence of 19,467 N for the 4,375 pounds minimum intermediate crush resistance. For peak crush resistance (S6.2.3), the rule provided an erroneous equivalence of 5,338 N for the existing 12,000 pounds requirement. We recommend that this value be changed to 53,397 N.

Our previous petition for reconsideration (dated October 26, 2007) of the September 11, 2007 final rule had pointed out comparable conversion errors in S6.1.2 and S6.1.3 (see page 35 of that petition).

Thank you for your prompt consideration and resolution of the issues identified in this letter. The Alliance and its members are available to meet with you or your staff to assist the agency in understanding these matters.

Sincerely,



Robert Strassburger
Vice President
Vehicle Safety and Harmonization
Alliance of Automobile Manufacturers

cc: C. Wiacek